

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Hearing Date and Time:
July 25, 2018 at 10:00 a.m.

-----X
In re:

Chapter 11

Harlem Market Inc.,

Case No. 18-10754-(MEW)

Debtor.
-----X

**SUPPLEMENT TO DEBTOR'S MOTION FOR EXTENSION OF TIME TO
ASSUME OR REJECT COMMERCIAL LEASE**

**TO THE HONORABLE MICHAEL E. WILES,
UNITED STATES BANKRUPTCY JUDGE:**

Harlem Market Inc. (the "Debtor"), by and through its counsel, Goldberg Weprin Finkel Goldstein LLP, as and for its Supplement to its motion for an Order extending the Debtor's time to assume or reject its commercial lease pursuant to Section 365(d)(4) (ECF #22), respectfully alleges as follows:

1. The Debtor operates a supermarket at 2005 Third Avenue, New York, NY under the Associated Food banner pursuant to a certain commercial lease, dated April 13, 2015 (the "Lease") with AK Properties Group LLC as landlord (the "Landlord").

2. Pursuant to Section 365(d)(4) of the Bankruptcy Code, the Debtor has moved to extend its time to assume or reject the Lease for a further period of ninety (90) days from July 17, 2018 to October 15, 2018.¹

¹ The Landlord consented to an interim extension of the deadline from July 17, 2018 to July 26, 2018 pursuant to Stipulation "So Ordered" on July 23, 2018 (ECF #23) so that there would be no "gap" pending the hearing on the Motion.

3. The Lease has been the focal point of the Chapter 11. At one time, the Debtor hoped to negotiate a resolution of a cancellation provision in the Lease that has impeded the Debtor's efforts to sell its supermarket. The Landlord has resisted any change to the Lease, leaving the Debtor with two options: litigate or move to another location.

4. Without waiving rights to litigate, the Debtor is in the process of attempting to secure an alternative location, pursuant to which a new lease will be signed and the Debtor will assume certain obligations. Currently, the Debtor's is pursuing a possible relocation of the supermarket to downtown premises, in furtherance of the attached letter of intent, annexed hereto as Exhibit "A". Although the letter of intent is still under discussion, the Debtor is hopeful that the new landlord will offer a lease consistent with its terms. In the interim, the Debtor continues to pay its rent obligations to the current Landlord.

5. Previously, the Landlord has objected to the proposed extension based upon the failure to pay July rent and real estate taxes. The July base rent obligation has been satisfied. Attached hereto as Exhibit "B" is a copy of the wire transfer to the Landlord containing proof of payment of the July base rent of \$17,500.

6. While the Debtor was billed for real estate taxes for the period from July 1, 2018 through December 31, 2018, this bill covers periods of time beyond the Debtor's requested extension, when the Debtor may no longer be in possession. Accordingly, the Debtor is hoping to pay the July 1, 2018 tax bill on a pro rated basis, one month at a time. Attached hereto as Exhibit "C" is a copy of the July tax payment of \$6,242.17.

7. In view of these payments, the Debtor submits that it is appropriate for the Court to grant a further extension for ninety (90) days to assume or reject the Lease, so a likely transition can proceed in an orderly fashion.

Dated: New York, New York
July 23, 2018

GOLDBERG WEPRIN
FINKEL GOLDSTEIN LLP
Attorneys for the Debtor
1501 Broadway, 22nd Floor
New York, New York 10036
(212) 221-5700

By: /s/ Kevin J. Nash, Esq.

EXHIBIT A



200 Madison Avenue, 5th Floor
New York, NY 10016-3912
ROSENYC.COM

June 28, 2018

Mr. Scott Klatsky
Director of NYC Retail Leasing & Acquisitions
Time Equities Inc.
55 Fifth Avenue
New York, NY 10003

Dear Scott:

Rose Associates, Inc. as Agent for Uniway Partners, L.P. is authorized to present the following revised proposal to lease space(s) at our property on East 8th Street, New York, NY. The terms and conditions are as follows:

<u>Building:</u>	60 East 9 th Street, New York, NY
<u>Premises:</u>	<i>65-67 East 8th Street:</i> Approximately 5,317 sf ground floor plus 2,157 sf lower level <i>69 East 8th Street:</i> Approximately 930 sf ground floor, no basement
<u>Tenant:</u>	A new corporation to be formed doing business as a high-end food market.
<u>Landlord:</u>	Uniway Partners, L.P.
<u>Use:</u>	Gourmet food market, no cooking with gas
<u>Lease Term:</u>	Fifteen (15) years plus one (1) five (5) year option
<u>Base Rent:</u>	\$80 psf
<u>Escalations of Base Rent:</u>	Ten percent (10%) every Five (5) years
<u>Option Base Rent:</u>	Increase the base rent in year fifteen (15) of the lease term by three percent (3%) in each year of the Option Period
<u>Lease Commencement Date:</u>	Shall be upon mutual execution and delivery of the Lease
<u>Rent Commencement:</u>	Six (6) full months of abatement followed by six (6) months of fifty percent (50%) rent from the date of Landlord's approval of tenant's final plans
<u>Additional Rent:</u>	Tenant to pay its proportionate share of increases in real estate taxes for Block 560 Lot 1202 over 2018/2019 fiscal base year.

This outline sets forth only some of the terms and conditions that serve as the basis for further discussions. Neither this outline or any discussions between Tenant, Sub-Tenant, Landlord or their respective agents or attorneys, nor the exchange or preparation of any such papers or memoranda will be deemed to constitute a final, binding or mutual agreement. Any such final binding agreement is expressly conditioned upon the execution and delivery by Sub-Tenant, Tenant and Landlord of a formal, written, definitive lease or other agreement and upon approval of the officers of the Sub-Tenant, Tenant and Landlord. Accordingly, this outline does not constitute a contractual commitment and either party shall be free to discontinue negotiations at any time without cause and without obligation or liability whatsoever.



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<u>Electric:</u>	By direct meter to ConEd
<u>Water & Sewer:</u>	By sub-meter
<u>Assignment / Sublease:</u>	Tenant to have the right to assign and/or sublet the Premises with Landlord's consent not to be unreasonably withheld subject to tenant's "Use Clause."
<u>Signage and Façade:</u>	As per Tenant Manual previously submitted.
<u>Landlord's Work:</u>	Premises to be delivered in "as-is" condition, free and clear of all former tenancies.
<u>Tenant Work:</u>	<ul style="list-style-type: none">• New electrical panels• All utilities upgraded• Façade renovation• Complete renovation internally for market
<u>HVAC:</u>	Existing HVAC system to be delivered in good working order.
<u>Cleaning:</u>	Tenant shall be responsible for hiring a private carter for rubbish removal and cleaning of the Premises.
<u>Security Deposit:</u>	Two (2) months cash security
<u>Guaranty:</u>	Good Guy Guaranty with nine (9) month notice provision.
<u>Right of First Offer:</u>	As further defined in the Lease.
<u>Exclusive Use:</u>	Landlord will not rent to another gourmet market in the Building.
<u>Brokerage:</u>	Tenant acknowledges that the only broker tenant has worked with for this location is Time Equities Inc. and Landlord will pay Time Equities Inc. one (1) full commission pursuant to a separate agreement.

All other relevant terms and conditions other than those stated herein shall remain the same as in the Lease.

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ROSE
ASSOCIATES

200 Madison Avenue, 5th Floor
New York, NY 10016-3912
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Unless and until a definite lease agreement is duly executed in writing and signed by the parties, regardless of the reason for such agreement not having been so executed, neither party shall be under any obligation to the other irrespective of this proposal and irrespective of any negotiations, agreements, or understandings heretofore or thereafter existing between the parties.

Very Truly Yours,

Bruce Spiegel
Senior Managing Director

AGREED AND ACCEPTED:
TENANT:

By: _____

Title: _____

Date: _____

This outline sets forth only some of the terms and conditions that serve as the basis for further discussions. Neither this outline or any discussions between Tenant, Sub-Tenant, Landlord or their respective agents or attorneys, nor the exchange or preparation of any such papers or memoranda will be deemed to constitute a final, binding or mutual agreement. Any such final binding agreement is expressly conditioned upon the execution and delivery by Sub-Tenant, Tenant and Landlord of a formal, written, definitive lease or other agreement and upon approval of the officers of the Sub-Tenant, Tenant and Landlord. Accordingly, this outline does not constitute a contractual commitment and either party shall be free to discontinue negotiations at any time without cause and without obligation or liability whatsoever.

EXHIBIT B



Domestic Wire Transfer

Initiator: Vanessa Perdomo

Date: 07/16/2018

Initiator's Ph #: (212) 722-0873

Reference Number: 0201

Approver's Name: Eudora T Saunders

Wire Status: Pending Branch Approval

Wire Amount	Customer's Bank Code	Branch Bank Code	Branch #
\$17,500.00	004-TD BANK N.A.	004-TD BANK N.A.	3957

Same Day Deposit?

No

Wire Type

Account Type

Wire Transfer

☐ Check if Federal Tax Payment

Business

ORIGINATOR

Customer Name

Harlem Mkt Inc

Customer Account Number

0731

Beneficiary Name

Ak Properties Group

Beneficiary Account Number

Beneficiary Address 1

309 East 94th st

Beneficiary Address 2

Beneficiary City

new york

Beneficiary State / Zip Code

NY 10128

ABA Number

026013576

Receiving Bank Name

SIGNATURE BANK

SPECIAL INSTRUCTIONS

Further Credit Bank Name

Further Credit Comments (Max 140 Characters)

CUSTOMER REQUESTING

APPROVED BY

(Signature)

Harlem Mkt Inc

(Signature)

Notices & Disclaimers: Placeholder for disclaimer

EXHIBIT C



Log Off

Create Business/Corporate Payments (CCD) Batch

*Required

Your Company ID: *

Your Company Name: *

Company Entry Description: *

Effective Date: *

Originating Account: *

Pay to Corporations:

Corporation *	ID	Account #	RTN	Account Type	Amount *	
AK PROPERTIES G	Rent And Ta	REDACTED	0260135	Checking	\$ 6,242.17	Delete
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	Delete
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	Delete
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<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	Delete

[Add more rows](#)

Number of Items:
1

Total
Amount: \$6,242.17

[Back](#)

Save Batch

Release Batch